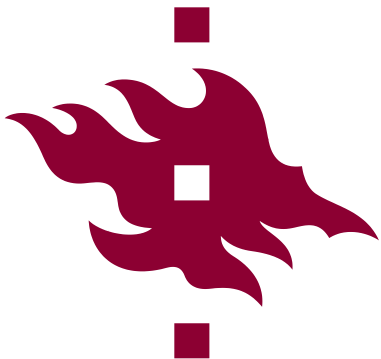




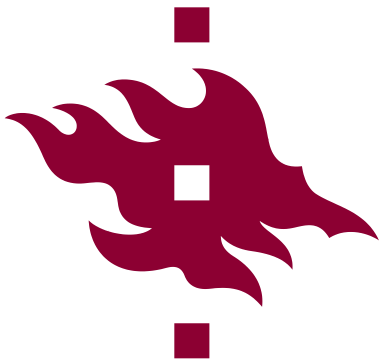
variations on a theme: ways to tackle diffuse water pollution on the basis of lessons learned

**Tiina Korvela / doctoral candidate
University of Helsinki / Finland**



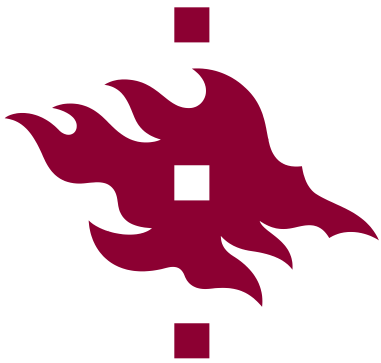
point of departure

- Finland / Baltic Sea / industrial agriculture
- Phosphorus / nitrogen loads
 - agriculture responsible of 50–70 % of nitrogen runoffs
- Union legislation, implemented at national level, some national additions



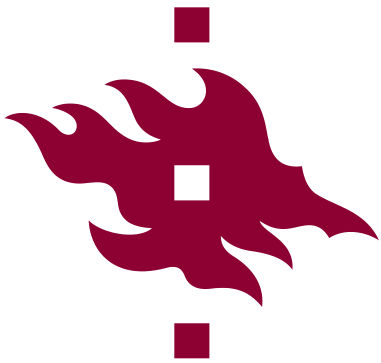
structure

- Three phases of legal strategies currently in use
 - 1) The Substance: the Nitrates Directive (91/67/EEC)
 - 2) The Carrot: targeted financial support
 - 3) The Area and Activities: the Water Framework Directive (2000/60/EC)
- Two variations which could be useful
 - Zooming in: Small solutions
 - Zooming out: Legal ecology



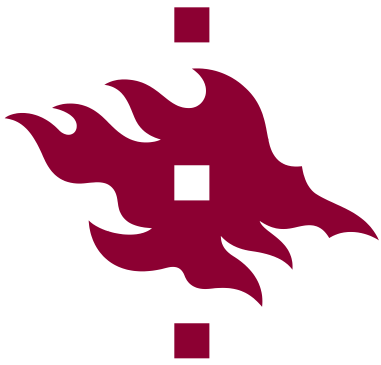
phase I the substance

- The Nitrates Directive (91/676/EEC)
- Tools
 - monitoring network (vrt. the WFD)
 - action programmes for Member States
 - clear(er) implementation strategy (Finland with Nitrates Act at 2000)
- Effective – at its scope
 - ground and surface water quality has been stable or improved (by 2008)



phase II the carrot

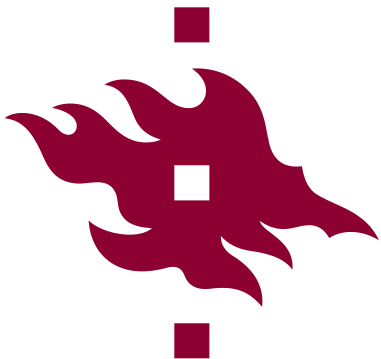
- Targeted financial support for the farmers
- Mainly with Common Agricultural Policy, also national support schemes
 - CAP to be renewed by 2013: first legal proposals at Oct 2011
- Various options to funnel the benefits
 - direct support, agri-environmental support, natural handicap payments
- Ineffective regarding water protection
 - the nitrates runoff has even increased (Lankoski & Ollikainen 2011)



phase III

the area and activities

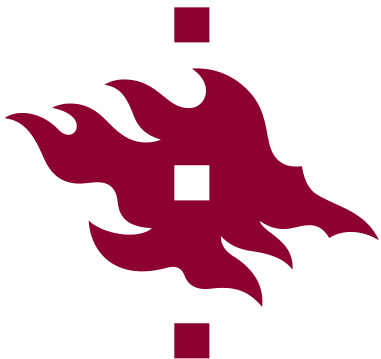
- The Water Framework Directive (2000/60/EC)
- Focus: river basins
- Critical points
 - the normativity of environmental objectives
 - feasibility of ‘combined approach’
 - the principle of cost recovery (esp. the Commission)
- Uncertainties
 - normativity in general
 - national exceptions
 - long implementation period



variations I

small solutions

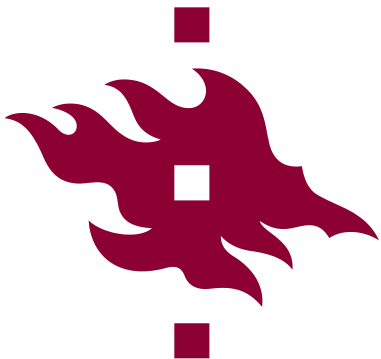
- Focus at individual farms / fields
- TEHO-project between 2008–2011
 - at Southwest Finland / 20 % of arable land
 - in search for more effective measures
 - lessons learned: even the old ones are not fully in use, finding new is challenging, information of existing options has not reached the farmers...
- Challenges
 - how to apply country-wide without adding bureaucracy?
 - how about the principle of equity?



variations II

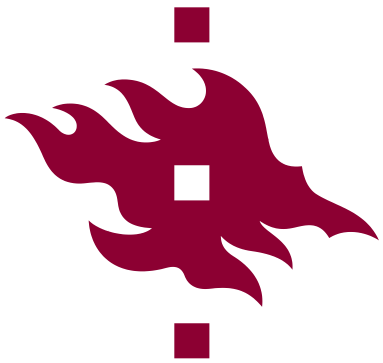
legal ecology

- Taking aims seriously by merging
 - challenges of ecology as a field of science;
 - aim-setting sections at modern environmental statutes; and
 - values motivating environmental regulation
- Principles à la Richard Dworkin / Robert Alexy
 - the competing aims can be mended
- Challenges
 - the Nitrates Directive not exactly a modern one; the WFD even post-modern
 - how to meet the aim of cutting out bureaucracy



literature

- TEHO Plus -project: <<http://www.ymparisto.fi/default.asp?node=26691&lan=en>>
- Lankoski & Ollikainen, *Counterfactual approach for assessing agri-environmental policy: Theory with an application to Finnish water protection policy* (Helsinki 2011)
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- Henrik Josefsson and Lasse Baaner 'The Water Framework Directive—A Directive for the Twenty-First Century?' (2011) 23(3) Journal of Environmental Law 463
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- Lena Wahlberg, *Legal Questions and Scientific Answers: Ontological Differences and Epistemic Gaps in the Assessment of Causal Relations* (Lund University, Lund 2010)
- Robert Alexy, *A Theory of Constitutional Rights* in Julian Rivers (ed), (Oxford University Press, Oxford; New York 2002)
- Ronald Dworkin, *Taking rights seriously* (New impr. corr. with appendix: a reply to critics. edn Duckworth, London 1978)



thanks!